



August 24, 1999

Mr. Scott Fawcett
Legal Counsel
Open Records Division
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR99-2381

Dear Mr. Fawcett:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126755.

The Comptroller of Public Accounts (the "comptroller") received a request for records of warrants issued in the past two years for payment to contractors identified by the requestor. You claim that the amount of payment of such warrants is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 111.006(a)(2) of the Tax Code. You have supplied the responsive information to this office for review, marked to indicate that portion you seek to withhold. We assume that the unmarked information has been released. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 111.006 of the Tax Code makes certain information related to tax returns and examinations confidential; in pertinent part, it reads:

- (a) The following matter is confidential and may not be used publicly, opened to public inspection, or disclosed except as permitted under Subsection (b), (d), or (e):

...

- (2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer.

In interpreting the applicable statutes, the Texas Supreme Court held that "the amounts of assessed deficiencies, refunds or credits are derived from tax-payer information and thus are confidential," but that the comptroller must "disclose that audits resulted in a deficiency assessment or refund warrant but not to disclose the amounts of an assessment or refund." *A & T Consultants, Inc. v. Sharp*, 904 S.W. 2d 668, 667, 680 (Tex. 1995). We conclude that the dollar amounts marked by you are excepted from disclosure by section 552.101 of the Government Code in conjunction with section 111.006(a)(2) of the Tax Code. That information must, therefore, be withheld.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 126755

Encl. Submitted documents

cc: Mr. David Koenig
Associated Press
4851 LBJ Freeway, Suite 300
Dallas, Texas 75244-6002
(w/o enclosures)